

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of DEREK DWAYNE WIGGINS,
JERRY JEROME ELLIS, OCTAVIUS ODELL
ELLIS, and DESHONTE LAVEL THOMAS,
Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellant,

v

LARITA THOMAS, a/k/a LAREDA MICHELLE
THOMAS,

Respondent-Appellee.

UNPUBLISHED
April 28, 2005

No. 258144
Wayne Circuit Court
Family Division
LC No. 97-356074

Before: Griffin, P.J., and Bandstra and Hoekstra

BANDSTRA, J. (*concurring*).

I concur in the decision to affirm the trial court's order denying the referee's recommendation to terminate respondent's parental rights. As petitioner argues, in some respects it appears that the trial court's decision was based more on arguments of counsel for respondent than it was on the factual record presented before the referee. Nonetheless, the trial court stated that it relied on the factual findings of the referee but decided that, based on those findings, it would rule differently than the referee recommended. That approach was consistent with MCR 3.991(E) and, while there is certainly evidence to support the referee's recommendation of termination, I am not left with a definite conviction that a mistake was made in the trial court's determination that the evidence did not establish in a "clear and convincing" fashion that the statutory grounds for termination were satisfied. MCL 712A.19b(3).

/s/ Richard A. Bandstra